

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SERGEI MOROSHKIN,

Plaintiff,

-against-

NATIONAL COUNCIL ON THE AGING, et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/31/2024

23-cv-01301 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:

On August 15, 2024, the Court directed Defendant National Council on the Aging (“NCOA”) to answer or move against the complaint by August 30, 2024. Dkt. No. 34. In accordance with this Order, Defendant NCOA filed a motion to dismiss on August 30, 2024. Dkt. No. 38. The Court then set a briefing schedule, with Plaintiff’s opposition to Defendant NCOA’s motion due on October 4, 2024, and Defendant’s reply in support of its motion due on October 12, 2024. Dkt. No. 41. Plaintiff filed his opposition to Defendant NCOA’s motion to dismiss on September 16, 2024. Dkt. No. 44. Defendant NCOA did not file a reply.

In a letter dated October 25, 2024, Plaintiff states, “Defendant [NCOA] did not respond on my Notice of Opposition to Motion to Dismiss (09/16/24) required by your order (09/05/2024) on or before October 12, 2024.” Dkt. No. 46 at 1. Plaintiff then filed a Notice of Motion for Default Judgment, dated October 28, 2024, for Defendant NCOA’s “violation of Federal Rules of Civil Procedure 55(a) and failure to comply with Court Order . . . on to reply to Plaintiff opposition to Defendant motion to dismiss . . . on or before October 12, 2024[.]” Dkt. No. 45 at 1.

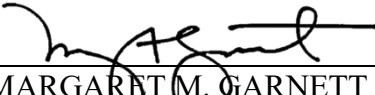
Filing a reply in further support of a motion is optional and not required by the Federal Rules of Civil Procedure. In other words, a litigant does not default by electing to not file a reply brief. Furthermore, the Court’s September 5, 2024 Order that established a briefing schedule was not a directive that required Defendant NCOA to file a reply; instead, it provided a timeframe within which to file a reply if Defendant NCOA chose to do so. Defendant NCOA elected not to file a reply in support of its motion to dismiss, so this Court will rely on Defendant NCOA’s motion to dismiss and Plaintiff’s opposition thereto when evaluating Defendant NCOA’s motion.

Accordingly, it is hereby ORDERED that Plaintiff’s Notice of Motion for Default (Dkt. No. 45) is DENIED.

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff.

Dated: October 31, 2024
New York, New York

SO ORDERED.



MARGARET M. GARNETT
United States District Judge